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BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)

BERNARD GOETZ, M.D.)

File No. 17-2001-120551

Physician's and Surgeon's)
Certificate No. A 36006)

Respondent.)
_____)

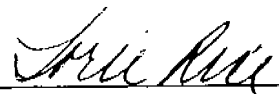
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 25, 2003.

IT IS SO ORDERED July 24, 2003.

MEDICAL BOARD OF CALIFORNIA

By: 
Lorie G. Rice, Chair
Panel A
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 KAREN B. CHAPPELLE, State Bar No. 141267
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
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Telephone: (213) 897-8944
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6 Attorneys for Complainant

7
8 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 BERNARD GOETZ, M.D.
12 736 N. Vista Street
13 Los Angeles, CA 90046

14 Physician & Surgeon Certificate No. A 36006

15 Respondent.

Case No. 17-2001-120551

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Ron Joseph (Complainant) is the Executive Director of the Medical Board
21 of California. He brought this action solely in his official capacity and is represented in this
22 matter by Bill Lockyer, Attorney General of the State of California, by Adrian K. Panton,
23 Supervising Deputy Attorney General.

24 2. Respondent Bernard Goetz, M.D. (Respondent), is represented in this
25 proceeding by attorney M. Gayle Askren, whose address is 1012 Park Place, Coronado,
26 California 92118-2822.

27 3. On or about October 24, 1980, the Medical Board of California issued
28 Physician & Surgeon Certificate No. A 36006 to Bernard Goetz, M.D. (Respondent). The

1 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 17-2001-120551 and will expire on September 30, 2005, unless renewed.

3 JURISDICTION

4 4. Accusation No. 17-2001-120551 was filed before the Division of Medical
5 Quality (Division) for the Medical Board of California, Department of Consumer Affairs, and is
6 currently pending against Respondent. The Accusation and all other statutorily required
7 documents were properly served on Respondent on September 3, 2002. Respondent timely filed
8 his Notice of Defense contesting the Accusation. A copy of Accusation No. 17-2001-120551 is
9 attached as exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and
12 understands the charges and allegations in Accusation No. 17-2001-120551. Respondent has
13 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
14 Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
17 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
18 the right to present evidence and to testify on his own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in
26 Accusation No. 17-2001-120551, *for purposes of this proceeding only.*

27 9. Respondent agrees that his Physician & Surgeon Certificate is subject to
28 discipline and he agrees to be bound by the Division of Medical Quality (Division) 's imposition

1 of discipline as set forth in the Disciplinary Order below.

2 CONTINGENCY

3 10. This stipulation shall be subject to approval by the Division of Medical
4 Quality. Respondent understands and agrees that counsel for Complainant and the staff of the
5 Medical Board of California may communicate directly with the Division regarding this
6 stipulation and settlement, without notice to or participation by Respondent or his counsel. By
7 signing the stipulation, Respondent understands and agrees that he may not withdraw his
8 agreement or seek to rescind the stipulation prior to the time the Division considers and acts
9 upon it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated
10 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
11 be inadmissible in any legal action between the parties, and the Division shall not be disqualified
12 from further action by having considered this matter.

13 11. The parties understand and agree that facsimile copies of this Stipulated
14 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
15 force and effect as the originals.

16 12. In consideration of the foregoing admissions and stipulations, the parties
17 agree that the Division may, without further notice or formal proceeding, issue and enter the
18 following Disciplinary Order:

19 DISCIPLINARY ORDER

20 IT IS HEREBY ORDERED that Physician & Surgeon Certificate No. A 36006
21 issued to Respondent Bernard Goetz, M.D., is revoked. However, the revocation is stayed and
22 Respondent is placed on probation for five (5) years on the following terms and conditions.

23 Within 15 days after the effective date of this decision the respondent shall
24 provide the Division, or its designee, proof of service that respondent has served a true copy of
25 this decision on the Chief of Staff or the Chief Executive Officer at every hospital where
26 privileges or membership are extended to respondent or at any other facility where respondent
27 engages in the practice of medicine and on the Chief Executive Officer at every insurance carrier
28 where malpractice insurance coverage is extended to respondent.

1
2 1. ETHICS COURSE Within sixty (60) days of the effective date of this
3 decision, respondent shall enroll in a course in Ethics approved in advance by the Division or its
4 designee, and shall successfully complete the course during the first year of probation.

5 2. PHYSICIAN ASSESSMENT AND CLINICAL EDUCATION
6 PROGRAM Within 90 days from the effective date of this decision, respondent, at his/her
7 expense, shall enroll in The Physician Assessment and Clinical Education Program at the
8 University of California, San Diego School of Medicine (hereinafter the "PACE Program"). The
9 PACE Program consists of the Comprehensive Assessment Program which is comprised of two
10 mandatory components: Phase 1 and Phase 2. Phase 1 is a two-day program which assesses
11 physical and mental health; neuropsychological performance; basic clinical and communication
12 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to the
13 specialty or sub-specialty of the respondent. After the results of Phase 1 are reviewed,
14 respondent shall complete Phase 2. Phase 2 comprises five (5) days (40 hours) of Clinical
15 Education in respondent's field of specialty. The specific curriculum of Phase 2 is designed by
16 PACE Faculty and the Department or Division of respondent's specialty, and utilizes data
17 obtained from Phase 1. After respondent has completed Phase 1 and Phase 2, the PACE
18 Evaluation Committee will review all results and make a recommendation to the Division or its
19 designee as to whether further education, clinical training (including scope and length), treatment
20 of any medical and/or psychological condition and any other matters affecting respondent's
21 practice of medicine will be required or recommended. The Division or its designee may at any
22 time request information from PACE regarding the respondent's participation in PACE and/or
23 information derived therefrom. The Division may order respondent to undergo additional
24 education, medical and/or psychological treatment based upon the recommendations received
25 from PACE.

26 Upon approval of the recommendation by the Division or its designee, respondent
27 shall undertake and complete the recommended and approved PACE Program. At the completion
28 of the PACE Program, respondent shall submit to an examination on its contents and substance.

1 The examination shall be designed and administered by the PACE Program faculty. Respondent
2 shall not be deemed to have successfully completed the program unless he/she passes the
3 examination. Respondent agrees that the determination of the PACE Program faculty as to
4 whether or not he passed the examination and/or successfully completed the PACE Program
5 shall be binding.

6 Respondent shall complete the PACE Program no later than six months after his
7 initial enrollment unless the Division or its designee agrees in writing to a later time for
8 completion.

9 If respondent successfully completes the PACE Program, including the
10 examination referenced above, he agrees to cause the PACE Program representative to forward a
11 Certification of Successful Completion of the program to the Division or its designee. If
12 respondent fails to successfully complete the PACE Program within the time limits outlined
13 above, he shall be suspended from the practice of medicine.

14 Failure to participate in, and successfully complete all phases of the PACE
15 Program, as outlined above, shall constitute a violation of probation.

16 3. MONITORING Within thirty (30) days of the effective date of this
17 decision, respondent shall submit to the Division or its designee for its prior approval a plan of
18 practice in which respondent's practice shall be monitored by another physician in respondent's
19 field of practice, who shall provide periodic reports to the Division or its designee.

20 If the monitor resigns or is no longer available, respondent shall, within fifteen
21 (15) days, move to have a new monitor appointed, through nomination by respondent and
22 approval by the Division or its designee.

23 4. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
24 respondent is prohibited from supervising physician assistants.

25 5. OBEY ALL LAWS Respondent shall obey all federal, state and local
26 laws, all rules governing the practice of medicine in California, and remain in full compliance
27 with any court ordered criminal probation, payments and other orders.

1 6. QUARTERLY REPORTS Respondent shall submit quarterly
2 declarations under penalty of perjury on forms provided by the Division, stating whether there
3 has been compliance with all the conditions of probation.

4 7. PROBATION SURVEILLANCE PROGRAM COMPLIANCE
5 Respondent shall comply with the Division's probation surveillance program. Respondent shall,
6 at all times, keep the Division informed of his business and residence addresses which shall both
7 serve as addresses of record. Changes of such addresses shall be immediately communicated in
8 writing to the Division. Under no circumstances shall a post office box serve as an address of
9 record, except as allowed by Business and Professions Code section 2021(b).

10 Respondent shall, at all times, maintain a current and renewed physician's and
11 surgeon's license.

12 Respondent shall also immediately inform the Division, in writing, of any travel
13 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
14 than thirty (30) days.

15 8. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
16 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the
17 Division, its designee or its designated physician(s) upon request at various intervals and with
18 reasonable notice.

19 9. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
20 STATE NON-PRACTICE In the event respondent should leave California to reside or to
21 practice outside the State or for any reason should respondent stop practicing medicine in
22 California, respondent shall notify the Division or its designee in writing within ten (10) days of
23 the dates of departure and return or the dates of non-practice within California. Non-practice is
24 defined as any period of time exceeding thirty (30) days in which respondent is not engaging in
25 any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time
26 spent in an intensive training program approved by the Division or its designee shall be
27 considered as time spent in the practice of medicine. A Board-ordered suspension of practice
28 shall not be considered as a period of non-practice. Periods of temporary or permanent residence

or practice outside California or of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary order.

10. COMPLETION OF PROBATION Upon successful completion of probation, respondent's certificate shall be fully restored.

11. VIOLATION OF PROBATION If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

12. COST RECOVERY The respondent is hereby ordered to reimburse the Division the amount of \$4,500.00 payment due for cost of investigation within ninety (90) days of the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Division's cost of investigation and prosecution shall constitute a violation of the probation order, unless the Division agrees in writing to payment by an installment plan because of financial hardship. The filing of bankruptcy by the respondent shall not relieve the respondent of his responsibility to reimburse the Division for its investigative and prosecution costs.

13. PROBATION COSTS Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Division, which are currently set at \$2,488.00, but may be adjusted on an annual basis. Such costs shall be payable to the Division of Medical Quality and delivered to the designated probation surveillance monitor no later than January 31 of each calendar year. Failure to pay costs within 30 days of the due date shall constitute a violation of probation.

14. LICENSE SURRENDER Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his certificate to the Board. The Division reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and

1 reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent
2 will not longer be subject to the terms and conditions of probation.

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4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and
6 have fully discussed it with my attorney, M. Gayle Askren. I understand the stipulation and the
7 effect it will have on my Physician & Surgeon Certificate. I enter into this Stipulated Settlement
8 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
9 Decision and Order of the Division of Medical Quality, Medical Board of California.

10 DATED: February 18, 2003.

11 B Goetz M.D.
12 BERNARD GOETZ, M.D.
13 Respondent
14

15 I have read and fully discussed with Respondent Bernard Goetz, M.D., the terms
16 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
17 Order. I approve its form and content.

18 DATED: February 18, 2003.

19 M. Gayle Askren
20 M. GAYLE ASKREN
21 Attorney for Respondent
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs.

DATED: June 13, 2003

BILL LOCKYER, Attorney General
of the State of California


KAREN B. CHAPPELLE
Supervising Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03573160-LA02 0811

Exhibit A

Accusation No. 17-2001-120551

1 BILL LOCKYER, Attorney General
of the State of California
2 PAUL C. AMENT, State Bar No. 60427
Deputy Attorney General
3 For KAREN CHAPPELLE
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-8944
6 Facsimile: (213) 897-1071
7 Attorneys for Complainant

8
9 **BEFORE THE**
10 **DIVISION OF MEDICAL QUALITY**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 17-2001-120551

15 BERNARD GOETZ, M.D.
736 N. Vista Street
16 Los Angeles, CA 90046

A C C U S A T I O N

17 Physician and Surgeon's Certificate No. A 36006
18 Respondent.

19 Complainant alleges:

PARTIES

20 1. Ron Joseph (Complainant) brings this Accusation solely in his official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs.

23 2. On or about October 24, 1980, the Medical Board of California issued
24 Physician and Surgeon's Certificate Number A 36006 to Bernard Goetz, M.D. (Respondent).
25 The Physician and Surgeon's Certificate was in full force and effect at all times relevant to the
26 charges brought herein and will expire on September 30, 2002, unless renewed.
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“The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct.”

CAUSE FOR DISCIPLINE

(Aiding and Abetting Unlicensed Practice of Medicine)

8. Respondent is subject to disciplinary action under section 2264 of the Code in that from in or about October 1999 through in or about September 2001 he aided and abetted unlicensed persons to engage in the practice of medicine. The circumstances are as follows.

9. The persons whom Respondent aided and abetted to engage in the unlicensed practice of medicine were Fernando Guerra ("Guerra"), Linda A. Lewis (Lewis"), Clara Yarbrough ("Yarbrough"), Brochelle Hall, and other persons whose identity is unknown to Complainant. None of these persons was a licensed physician and surgeon.

10. The unlicensed practice of medicine aided and abetted by Respondent occurred at a medical clinic. The name of the medical clinic was initially FG Medical Group, but was later changed to BG Medical Group. The medical clinic was initially located at 2253 West Pico Boulevard, Suite A, in the City of Los Angeles. The clinic's location was thereafter changed to 1400 West Pico Boulevard in the City of Los Angeles. Thereafter, the location of the clinic was changed to an address unknown to Complainant. Hereinafter, this clinic will be referred to as the FG Medical Group.

11. Lewis and Yarbrough were licensed as physicians assistants. Lewis and Yarbrough practiced medicine at the FG Medical Group, ostensibly as physicians assistants under Respondent's supervision. However, Lewis and Yarbrough were not supervised by Respondent in the manner required by sections 3501 and 3502 of the Code, and by Title 16, section 1399.545 of the California Code of Regulations, and were therefore engaged in the unlawful and unlicensed practice of medicine.

1 12. At no time did Respondent meet Lewis in person.

2 13. Guerra was the owner of the FG Medical Group. Respondent had no
3 ownership interest in the FG Medical Group.

4 14. Respondent's acts of aiding and abetting the unlicensed practice of
5 medicine at the FG Medical Group by the persons set forth in paragraph 9 above included, but
6 were not limited to, the following:

7 (a) On or about October 26, 1999, Respondent entered into a written
8 Professional Services Agreement with Guerra. Under this Agreement, Respondent purportedly
9 became the Medical Director of FG Medical Group. However, Respondent did not see a single
10 patient at the FG Medical Group in the two years he was associated with it.

11 (b) In or about October, 1999, Respondent gave Guerra permission to bill
12 under Respondent's Medi-Cal number for the patients Lewis saw.

13 (c) On or about January 18, 2001, Respondent entered notes in the medical
14 files of patients G.A. and R.A.¹

15 (d) Respondent would periodically converse with Lewis by telephone
16 concerning the treatment of specific patients at the FG Medical Group.

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28 1. The names of these patients will be disclosed to Respondent upon a timely request for
discovery.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Division of Medical Quality issue a decision:


4 1. Revoking or suspending Physician and Surgeon's Certificate Number A
5 36006, issued to Bernard Goetz, M.D.;

6 2. Revoking, suspending or denying approval of Bernard Goetz, M.D.'s
7 authority to supervise physician's assistants, pursuant to section 3527 of the Code;

8 3. Ordering Bernard Goetz, M.D. to pay the Division of Medical Quality the
9 reasonable costs of the investigation and enforcement of this case, and, if placed on probation,
10 the costs of probation monitoring;

11 4. Taking such other and further action as deemed necessary and proper.

12 DATED: August 21, 2002.

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15 
16 RON JOSEPH
17 Executive Director
18 Medical Board of California
19 Department of Consumer Affairs
20 State of California
21 Complainant
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